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# A BILL FOR AN ACT

RELATING TO EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that in order to  
2       implement a program of school impact fees, established by  
3       Act 245, Session Laws of Hawaii 2007, certain amendments need to  
4       be made to the sections of law creating school impact districts  
5       and to the formulas and practices for providing land and  
6       collecting fees for new or expanded school facilities in areas  
7       expecting a large amount of residential growth.

8       The purpose of this Act is to clarify the sections of law  
9       pertaining to school impact fees to facilitate the provision of  
10      land and collection of fees for public schools.

11      SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
12      amended by adding a new section to be appropriately designated  
13      and to read as follows:

14      "§302A-    Use of data reflecting recent conditions in  
15      impact fee calculations.   (a) Every three years beginning in  
16      2010, the department shall concurrently update the following:

(1) School site area averages calculated pursuant to section 302A-1606(b);

(2) Elementary, middle or intermediate, and high school permanent facility construction costs per student, as provided under section 302A-1607; and

(3) Revenue credit per unit figures provided pursuant to section 302A-1607(e).

(b) Every three years following the initial determinations made pursuant to section 302A-1605, the department shall update the following:

(1) Student generation rates for each established school impact district; and

(2) Percentages of students enrolled at the elementary school, middle or intermediate school, and high school levels statewide that are located in permanent structures and portable classrooms.

(c) Every three years beginning in 2010, the department shall, where appropriate, update the list of cost factors for the twenty-six geographically limited cost districts, as provided in section 302A-1607(d), by incorporating any changes to the cost factors that have been made by the department of accounting and general services.

1        (d) If any data update required by this section is not  
2        completed within the specified time, the most current data shall  
3        be used until the update is completed."

4        SECTION 3. Chapter 302A, part VI, subpart B, Hawaii  
5        Revised Statutes, is amended by amending its title to read as  
6        follows:

7                                "[~~+~~]B.[~~+~~] SCHOOL IMPACT FEES"

8        SECTION 4. Section 302A-1601, Hawaii Revised Statutes, is  
9        amended to read as follows:

10        "[~~+~~]**S302A-1601**[~~+~~] **Findings.** New residential developments  
11        within identified school impact districts create additional  
12        demand for public school facilities. As such, once school  
13        impact districts are identified, new residential developments  
14        [~~will~~] shall be required to contribute toward the construction  
15        of new or expansion of existing public school facilities  
16        through:

- 17        (1) The land requirement, either through an in lieu fee or  
18        actual acreage (unless land is not required in the  
19        school impact district)[~~+~~], based on each new  
20        residential development's proportionate share of the  
21        need to provide additional public school sites; and

(2) The construction requirement either through an in lieu fee or actual construction based on ~~[the]~~ each new residential development's proportionate share of the need to construct additional facilities.

A study commissioned by the State has identified the land dedication requirement that is consistent with proportionate fair-share principles and the net capital cost of school facilities, excluding land costs, that is consistent with proportionate fair-share principles.

The State determines that new residential developments within designated school impact districts shall provide land for schools or pay a fee in lieu of land proportionate to the impacts of the new residential development on existing school facilities. The State also determines that new residential developments within designated school impact districts shall also pay school construction cost component impact fees proportionate to their impacts.

In determining the amounts of land component impact fees and construction cost component impact fees, the intent of the school impact fee calculations is that new residential developments should not be charged for a higher level of service than is being charged to existing developments. A reasonable

1 measure of the level of service is the percentage of classrooms  
2 that are being utilized by students in permanent structures, as  
3 opposed to portable buildings.

4 This [+]subpart[+] establishes the methodology for  
5 developers to provide their proportionate share of the land and  
6 the construction cost of new or expanded school facilities  
7 needed to serve new residential developments, as determined in  
8 [~~section 302A-1607.~~] sections 302A-1606 and 302A-1607,  
9 respectively."

10 SECTION 5. Section 302A-1602, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[+]§302A-1602[+] **Definitions.** As used in this  
13 [+]subpart[+], the following terms shall have the following  
14 meanings unless the context indicates otherwise:

15 "Acres[+] per student" means the [~~number of~~] area of land  
16 in acres required per student for a school site based on design  
17 standards for schools[+], which may include the actual school  
18 site size and the design enrollment of schools constructed  
19 within approximately the last ten years.

20 "Construction cost" means the net cost to construct a  
21 school, including without limitation, planning, design,  
22 engineering, grading, permits, construction, and construction

1 and project management, but not including the cost to acquire  
2 land. ~~[The intent of the school impact fee calculation is that~~  
3 ~~new developments should not be charged for a higher level of~~  
4 ~~service than is being provided to existing developments.]~~ A  
5 reasonable measure of the level of service is the percentage of  
6 classrooms that are in permanent structures, as opposed to  
7 portable buildings.

8 "Construction cost component impact fee" means ten per cent  
9 of the share of the construction cost for the required new  
10 school, the expansion of existing school facilities that is  
11 attributable to a specific development, or both.

12 "Cost per student" means the ~~[construction cost for a~~  
13 ~~school per student (actual school construction cost divided by~~  
14 ~~enrollment capacity).]~~ average of actual school construction  
15 costs, expressed in current dollars, divided by the respective  
16 design enrollments, for schools constructed within approximately  
17 the last ten years.

18 ~~["Cost/unit" means the impact fee for school construction~~  
19 ~~(land and construction).]~~

20 "County" means the city and county of Honolulu, the county  
21 of Hawaii, the county of Kauai, and the county of Maui.

22 "Department" means the department of education.

1       "Design enrollment" means the maximum number of students,  
2       or student capacity, a permanent school facility is designed to  
3       accommodate.

4       "Developer" means a person, corporation, organization,  
5       partnership, association, or other legal entity constructing,  
6       erecting, enlarging, altering, or engaging in any residential  
7       development activity.

8       "Dwelling unit" or "unit" means a multi-family or single-  
9       family residential unit.

10       "Fee in lieu" means a fee determined pursuant to section  
11       302A-1606[+] that is paid in lieu of the dedication of land.

12       "Land component" means a fee simple property that is  
13       vacant, suitable for a school site, and improved [÷]with  
14       infrastructure[÷].

15       "Land component impact fee" means the share of the required  
16       school site area, the fair market value of the fee simple land  
17       area, or any combination thereof that is attributed to a  
18       specific development based on the student generation rate from  
19       the project.

20       "Level of service" means the percentage of classrooms that  
21       are located in permanent structures, but not including  
22       classrooms located in portable buildings.

1 "Multi-family" means any dwelling unit other than a single  
2 family dwelling unit.

3 [~~"Multi-family unit count" means the total multi-family~~  
4 ~~dwelling units planned for a proposed development.~~]

5 "New residential development" means new residential  
6 projects involving rezoned properties or parcels, current zoned  
7 parcels with or without buildings, and redevelopment projects.  
8 These projects include subdivisions and other forms of "lot  
9 only" developments (when the dwelling [~~unit~~] units will not be  
10 built by the developer), and [~~include~~] developments that include  
11 single-family and multi-family units, condominiums, and  
12 additional or accessory dwelling units as defined by each  
13 county[, ~~and subdivisions~~].

14 "Owner" means the owner of record of real property or the  
15 owner's authorized agent.

16 "Proportionate share" means the pro rata share of the  
17 school impact fee attributed to the specific development based  
18 on the student generation rate from and number of units in the  
19 project.

20 "Recent school construction and site area averages" means  
21 the department's historical average acres required and  
22 enrollment capacity for elementary (K-5), middle (6-8), and high



(9-12) schools. Based on existing school construction data, the historical average design standards are as follows:

	<del>[Acres]</del> <u>Land Area/</u> school	Enrollment/school	<del>[Acres]</del> <u>Land Area/</u> student
Elem.	12.5 acres	800 students	.0156 acres
Middle	16.5 acres	1,500 students	.0110 acres
High	49 acres	1,600 students	.0306 acres

"Revenue credit" means the state general tax revenues under chapter 237 that will be generated by ~~[the]~~ a new ~~[residential]~~ dwelling unit and used to fund school capital facilities and pay for outstanding debt on existing facilities.

"School facilities" means the facilities owned or operated by the department, or the facilities included in the department of education capital budget or capital facilities plan.

"School impact district" means a geographic area designated by the board where an anticipated ~~[growth]~~ new residential development will create the need for one or more new schools or the expansion of one or more existing schools that are or will be located within the area and will primarily serve new ~~[housing]~~ dwelling units within the area.

~~["School impact fee: construction cost component" means ten per cent of the construction cost associated with the~~

1 ~~construction of a new school or expansion of an existing school~~  
2 ~~facility.~~

3 ~~"School impact fee: land component" means the pro rata~~  
4 ~~share of the fair market value of the fee simple land or acreage~~  
5 ~~attributed to the specific development based on the student~~  
6 ~~generation rate from the project.]~~

7 "Single-family" means a detached dwelling unit not  
8 connected to any other dwelling unit, or a detached building  
9 containing two dwelling units.

10 "Single-family unit count" means the total single-family  
11 units planned for a proposed development.

12 "Student generation rate" means the number of students  
13 generated by each multi-family and single-family unit when a  
14 residential development has matured and enrollment per unit no  
15 longer fluctuates[~~7~~] significantly, or [~~achieves~~] has  
16 substantially achieved a steady state."

17 SECTION 6. Section 302A-1603, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[~~§~~]**302A-1603**[~~§~~] **Applicability and exemptions.** (a)

20 Except as provided in subsection (b), any person who seeks to  
21 develop a new residential development within a designated school  
22 impact district requiring:

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1 (1) A county subdivision approval;  
2 (2) A county building permit; or  
3 (3) A condominium property regime approval for the  
4 project,  
5 shall be required to fulfill the land dedication or fee in lieu  
6 requirement and vertical construction cost component impact fee  
7 requirement of the department.

8 (b) The following shall be exempt from this section:

9 (1) Any form of housing permanently excluding school-aged  
10 children, with the necessary covenants or declarations  
11 of restrictions recorded on the property;

12 (2) Any form of housing [~~which~~] that is or will be paying  
13 the transient accommodations tax under chapter 237D;

14 (3) All nonresidential development; and

15 (4) Any development with an executed education  
16 contribution agreement or other like document with the  
17 department for the contribution of school sites or  
18 payment of fees for school land or school  
19 construction."

20 SECTION 7. Section 302A-1604, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:

1       "(b) Prior to the designation of a school impact district,  
2 the department shall prepare a written analysis that contains  
3 the following:

4       (1) A map and legend describing the boundaries of the  
5       proposed school impact district area, which may range  
6       from one school to one or more high school  
7       complexes[+], as well as maps and legends describing  
8       surrounding districts and school enrollments at  
9       existing school facilities in and around the school  
10       impact district; and

11       (2) Analysis to support the need to construct new or  
12       expand existing school facilities in the proposed  
13       school impact district area within the next twenty-  
14       five years to accommodate projected growth in the area  
15       based on various state and county land use,  
16       demographics, growth, density, and other applicable  
17       historical data projections and plans."

18       SECTION 8. Section 302A-1605, Hawaii Revised Statutes, is  
19 amended to read as follows:

20       "**[+]§302A-1605[+]** **Impact fee analysis.** (a) Upon  
21 designation of a school impact district, the department shall

1 prepare an impact fee analysis that shall include, at a minimum,  
2 the following:

3 (1) An analysis to determine appropriate student  
4 generation rates by housing type (multi-family [~~unit~~  
5 ~~count and single-family unit count~~) ~~for new~~  
6 ~~developments in the area.~~] and single-family) for all  
7 new residential developments in the school impact  
8 district area. This will provide the basis for  
9 determining the steady state enrollment generated by  
10 new residential developments that will need to be  
11 accommodated. The analysis shall also consider  
12 enrollment at existing school facilities, in and  
13 around the school impact district;

14 (2) Student generation rates, based on full build-out of  
15 the development when student generation rates are  
16 anticipated to be in a steady state mode (permanent  
17 facility);

18 [~~(3) Analysis of the initial development period, when~~  
19 ~~student enrollments are anticipated to peak (to~~  
20 ~~determine capacity of facilities);~~]

21 (3) An analysis to estimate the number of students  
22 generated by all new developments in the school impact

district area at the point in time when the total enrollment from these developments is anticipated to peak. This information is not required for or related to the determination of the impact fee; however, this will provide the basis for determining the maximum enrollment generated by new residential developments that will need to be accommodated in both permanent facilities and portable buildings;

(4) An analysis to identify the percentages of existing statewide student enrollment at the elementary school, middle or intermediate school, and high school levels that are located in permanent structures, as opposed to portable buildings, in surrounding high school complexes;

(5) Calculation of the current statewide level of service, which shall be the ratio of current student capacity at all school levels to the current enrollment at all school levels;

(6) An analysis of proposed redistricting, including but not limited to listing the advantages and disadvantages ~~by~~ of making more efficient use of existing underutilized assets;

(7) An analysis of appropriate school land area, other state lands, and enrollment capacity, which may include nontraditional (i.e., mid-rise or high-rise structures) facilities to accommodate the need for public school facilities in high growth areas or within existing urban developments; ~~[and~~

~~(8) An analysis to identify the percentages of existing student enrollment at the elementary school, middle or intermediate school, and high school levels that are located in permanent structures, and the percentages that are located in portable buildings in surrounding high school complexes.]~~

(8) An analysis including but not limited to the advantages and disadvantages of making more efficient use of existing or underutilized assets in the school impact district through school redistricting; and

(9) An analysis including but not limited to the advantages and disadvantages of potential changes to statewide school site areas and design enrollment standards that may be appropriate for application in the particular school impact district. This may include, for example, non-traditional facilities such

1 as mid-rise or high-rise structures in existing urban  
2 areas where new residential developments are expected  
3 to generate the need for new school construction.

4 (b) The analyses specified in paragraphs (1), (2), and (4)  
5 shall be periodically updated pursuant to section 302A- ."

6 SECTION 9. Section 302A-1606, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"[+]§302A-1606[+] Impact fee[+]; land component [-];**  
9 **determining the amount of land or fee in lieu. (a) The school**  
10 **land area requirements for new ~~[school facilities shall be~~**  
11 **~~determined based on the recent school construction averages.]~~**  
12 **residential developments in a school impact district shall be**  
13 **based on recent school construction and site area averages,**  
14 **student generation rates pursuant to section 302A-1605(a)(1) and**  
15 **(a)(2), recent school site area averages, calculated pursuant to**  
16 **subsection (b), and the number of dwelling units in the**  
17 **development.**

18 (b) The following formula shall be used to determine the  
19 total school land area requirement for each individual new  
20 residential development in a school impact district:

21 Elementary school student generation rate

22 per single-family unit (x) number of single-



1        family units (x) recent average elementary  
2        school site area per student;  
3                plus (+)  
4        Elementary school student generation rate  
5        per multi-family unit (x) number of multi-  
6        family units (x) recent average elementary  
7        school site area per student;  
8                plus (+)  
9        Middle or intermediate school student  
10       generation rate per single-family unit (x)  
11       number of single-family units (x) recent  
12       average middle or intermediate school site  
13       area per student;  
14               plus (+)  
15       Middle or intermediate school student  
16       generation rate per multi-family unit (x)  
17       number of multi-family units (x) recent  
18       average middle or intermediate school site  
19       area per student;  
20               plus (+)  
21       High school student generation rate per  
22       single-family unit (x) number of single-

1 family units (x) recent average high school

2 site area per student;

3 plus (+)

4 High school student generation rate per

5 multi-family unit (x) number of multi-family

6 units (x) recent average high school site

7 area per student;

8 equals (=)

9 Total school land requirement.

10 ~~[(b)]~~ (c) The procedure for determining whether the  
11 dedication of land is required or a payment of a fee in lieu is  
12 required for a new school facility or to satisfy the land  
13 component impact fee shall be as follows:

- 14 (1) A new residential development ~~[of greater than or~~  
15 ~~equal to fifty units, shall include a written~~  
16 ~~agreement, prior to the issuance of a building permit,~~  
17 ~~between the owner or developer of the property and the~~  
18 ~~department,]~~ with fifty or more units shall include a  
19 written agreement between the owner or developer of  
20 the property and the department, executed prior to  
21 issuance of a building permit, under which the owner  
22 or developer has:

1 (A) Agreed to designate an area to be dedicated for  
2 one or more schools for the development, subject  
3 to approval by the department; or

4 (B) Agreed to pay to the department, at a time  
5 specified in the agreement, a fee in lieu of land  
6 dedication[~~7~~].

7 (2) [~~New~~] A new residential [developments of] development  
8 with less than fifty units shall include a written  
9 agreement[~~7~~] between the owner or the developer of the  
10 property and the department, executed prior to the  
11 issuance of the building permit, under which the owner  
12 or developer has agreed to a time specified for  
13 payment for the fee in lieu [~~prior to the issuance of~~  
14 ~~the building permit,~~].

15 (3) Prior to approval of any [~~subdivision,~~] change of  
16 zoning, subdivision, or any other approval for a:

17 (A) Residential development [~~equal to or greater than~~  
18 ~~fifty~~] with fifty or more units; or

19 (B) Condominium property regime development of fifty  
20 or more units [~~or more~~],

21 the department shall notify the approving agency of  
22 its determination on whether [~~to require the~~

1 ~~dedication of land, the payment of~~ it will require  
2 the development to dedicate land, pay a fee in lieu  
3 thereof, or a combination of both~~[,]~~ for the provision  
4 of new school facilities.

5 ~~[(4) When land dedication is required, the land shall be~~  
6 ~~conveyed to the State upon completion of the~~  
7 ~~subdivision improvements and any offsite~~  
8 ~~infrastructure necessary to serve the land;~~

9 ~~(5) When the payment of a fee in lieu is required, the fee~~  
10 ~~in lieu shall be paid based on the terms contained in~~  
11 ~~the written agreement;~~

12 ~~(6) Whether the department determines to require land~~  
13 ~~dedication or the payment of a fee in lieu, shall be~~  
14 ~~guided by the following criteria:]~~

15 (4) The department's determination to require land  
16 dedication or the payment of a fee in lieu, or a  
17 combination of both, shall be guided by the following  
18 criteria:

19 (A) The topography, geology, access, value, and  
20 location of the land available for dedication;

21 (B) The size and shape of the land available for  
22 dedication;

1 (C) The location of existing or proposed schooling  
2 facilities; and

3 (D) The availability of infrastructure~~[, and]~~.

4 ~~[(7)]~~ (5) The determination of the department as to whether  
5 lands shall be dedicated or whether a fee in lieu  
6 shall be paid, or a combination of both, shall be  
7 final.

8 (6) When land dedication is required, the land shall be  
9 conveyed to the State upon completion of the  
10 subdivision improvements and any offsite  
11 infrastructure necessary to serve the land.

12 (7) When the payment of a fee in lieu is required, the fee  
13 in lieu shall be paid based on the terms contained in  
14 the written agreement.

15 ~~[(e)]~~ (d) In determining the value per acre for any new  
16 residential development, the fee simple value of the land  
17 identified for the new or expanded school facility shall be  
18 based on the appraised fair market value of improved, vacant  
19 land, zoned for residential use, and serviced by roads,  
20 utilities, and drainage. An appraiser, licensed pursuant to  
21 chapter 466K, who is selected and paid for by the developer,  
22 shall determine the value of the land. If the department does

1 not agree with the developer's appraisal, the department may  
2 engage another licensed appraiser at its own expense, and  
3 resolve, through negotiation between the two appraisers, a fair  
4 market value. If neither party agrees, the first two appraisers  
5 shall select the third appraiser, with the cost of the third  
6 appraisal being shared equally by the department and the  
7 developer, and the third appraisal shall be binding on both  
8 parties.

9       ~~[(d)]~~ (e) The developer or owner of new residential  
10 developments of greater than fifty units shall either pay the  
11 ~~[in lieu]~~ fee in lieu based on the land value as determined in  
12 subsection ~~[(e)]~~ (d) or convey appropriate acreage as determined  
13 in subsection (b). When conveying the fee simple interest for  
14 the new or expanded school facility, the developers shall be  
15 credited the difference between the fair market fee simple value  
16 of the property and the developers' proportionate share of the  
17 value of the land as determined in subsection ~~[(e)]~~ (d) against  
18 any impact fees for construction. Any excess may be transferred  
19 and used as credit against any future land or construction cost  
20 requirements on any other development of the State.

21       ~~[(e)]~~ (f) The dollar amount of the fee in lieu shall be  
22 determined using the following formula:

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1 Acres of land [~~calculated according to~~] subject to the fee  
2 in lieu, as determined under subsection [~~(b)~~] (c) multiplied  
3 by the value per acre of land determined pursuant to  
4 subsection [~~(c)~~] (d)."

5 SECTION 10. Section 302A-1607, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "~~[+]§302A-1607[+]~~ **Impact fee[+]; construction cost**  
8 **component [-]; determining the [~~cost per unit.~~] amount of the**  
9 **fee.** (a) The construction cost component of the school impact

10 fees shall be calculated using the following factors:

11 (1) For new school construction, the cost per student for  
12 each school type (elementary, middle or intermediate,  
13 and high school) is based on the ten-year average  
14 construction of a new school facility using the  
15 Honolulu assessment district in 2006 as the base.  
16 Costs for construction completed earlier than 2006  
17 shall be escalated to 2006 using the engineering news-  
18 record construction cost index;

19 (2) For expansion of existing school facilities, the cost  
20 per student for each school type (elementary, middle  
21 or intermediate, and high school) is based on the ten-  
22 year average construction of whatever components are

1 required to expand the school using the Honolulu  
2 assessment district in 2006 as the base;

3 (3) The cost per student in other assessment districts  
4 shall be the cost per student in the Honolulu  
5 assessment district multiplied by the appropriate cost  
6 factor in subsection ~~[(e)-.]~~ (d). At least every three  
7 years, the department shall update the cost per  
8 student based on the construction of a new permanent  
9 school facility, and present the written analysis to  
10 the board for review; and

11 (4) Student generation rates, as defined in section  
12 302A-1602.

13 (b) The student generation rate for each school type  
14 (elementary, middle or intermediate, and high school) shall be  
15 multiplied by the cost per student for each school type  
16 (elementary, middle or intermediate, and high school) to  
17 determine the ~~[cost/unit]~~ cost per dwelling unit in the  
18 development.

19 (c) The construction cost component impact fee shall be  
20 based on recent public school construction costs. The 1997 to  
21 2007 period school construction costs per student, adjusted for



1 both the year 2007 and for the Honolulu assessment district, are  
 2 as follows:

3 (1) Elementary schools: \$35,357 per student;

4 (2) Middle and intermediate schools: \$36,097 per student;

5 and

6 (3) High schools: \$64,780 per student.

7 The costs per student for other assessment districts shall be  
 8 determined by multiplying the Honolulu assessment district costs  
 9 per student by the applicable cost factor in subsection (d).

10 These costs per student shall be updated at least every three  
 11 years, pursuant to the provisions in section 302A- .

12 ~~[(e)]~~ (d) The State shall be divided into the following  
 13 twenty-six geographically limited cost districts~~[÷]~~, and the  
 14 cost factors listed for each cost district shall be applied to  
 15 the calculation of school construction costs per unit pursuant  
 16 to subsection (c):

17	Cost District	School District	Cost Factor
18	Honolulu	Honolulu	1.00
19	Ewa	Leeward/Central	1.00
20	Wahiawa	Central	1.05
21	Waialua	Central	1.10
22	Koolaupoko	Windward	1.00
23	Koolauloa	Windward	1.00
24	Waianae	Leeward	1.10
25	Hilo	Hawaii	1.15
26	Puna	Hawaii	1.20
27	Kona	Hawaii	1.20

1	Hamakua	Hawaii	1.20
2	South Kohala	Hawaii	1.20
3	North Kohala	Hawaii	1.25
4	Pohakuloa	Hawaii	1.25
5	Kau	Hawaii	1.30
6	Wailuku	Maui	1.15
7	Makawao	Maui	1.25
8	Lahaina	Maui	1.30
9	Hana	Maui	1.35
10	Molokai	Molokai	1.30
11	Lanai	Lanai	1.35
12	Lihue	Kauai	1.15
13	Koloa	Kauai	1.20
14	Kawaihau	Kauai	1.20
15	Waimea	Kauai	1.25
16	Hanalei	Kauai	1.25
17			
18	[ <del>(d)</del> ] <u>(e)</u> At least every three years, and concurrent with		
19	any update of the costs per student, the department shall update		
20	the revenue credits and present the written analysis to the		
21	board for review. The calculation of revenue credits shall be		
22	reviewed and calculated recognizing that the impact fee shall be		
23	set at one hundred per cent of the fair market value of the land		
24	and ten per cent of the total school construction cost.		
25	[ <del>(e)</del> ] <u>(f)</u> The construction cost component of the impact		
26	fees per dwelling unit shall be ten per cent of the amounts		
27	calculated according to the following formula:		
28	Cost per dwelling unit from [ <del>+</del> ]subsection (b)[ <del>+</del> ] minus		
29	any amount by which the revenue credit per dwelling		

1 unit from subsection ~~[(d)]~~ (e) exceeds ninety per cent  
2 of the per unit construction cost.

3 ~~[(f)]~~ (g) The amount of the fee shall be ~~[increased]~~  
4 adjusted from the date it was determined to the date it is paid  
5 using the engineering news-record construction cost index, or an  
6 equivalent index if that index is discontinued.

7 ~~[(g)]~~ (h) Any new residential development shall be  
8 required to obtain a written agreement executed between the  
9 owner or developer of the property and the department, prior to  
10 the issuance of a building permit, under which the owner or  
11 developer has agreed to a time specified for payment~~[, for]~~ of  
12 its ~~[school impact fee]~~ construction cost component ~~[prior to~~  
13 ~~the issuance of the building permit.]~~ impact fee."

14 SECTION 11. Section 302A-1608, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[+]§302A-1608[+] **Accounting and expenditure requirements.**

17 (a) Each designated school impact district shall be a separate  
18 benefit district. Fees collected within each school impact  
19 district shall be spent only within the same school impact  
20 district for the purposes collected.

21 (b) Land dedicated by the developer shall be used only as  
22 a site for the construction of one or more new schools or for

1 the expansion of existing school facilities. If the land is  
2 never used for the school facility, it shall be returned to the  
3 developer, or the developer's successor in interest. Once used,  
4 the land may be sold, with the proceeds used to acquire land for  
5 school facilities in the same school impact district~~[.]~~ serving  
6 the school impact district.

7 (c) If the land is not used for a school facility within  
8 twenty years of its dedication, it shall be returned to the  
9 developer, or the developer's successor in interest.

10 (d) Once used for school facilities, all or part of the  
11 land may be later sold. Proceeds from this sale shall be used  
12 to acquire land for school facilities in the same school impact  
13 district.

14 ~~[(e)]~~ (e) Fee in lieu funds may be used for ~~[expenses~~  
15 ~~related to acquiring a piece of land,~~] school site land  
16 acquisition and related expenses, including but not limited to  
17 surveying, appraisals, and legal fees. Fee in lieu funds shall  
18 not be used for the maintenance or operation of existing schools  
19 in the district, construction costs, including architectural,  
20 permitting, or financing costs, or for administrative expenses.

21 ~~[(f)]~~ (f) Impact fees for the construction cost component  
22 shall be used only for the costs of new school facilities that

1 expands the student capacity of existing schools or adds student  
2 capacity in new schools. School impact fees may not be used to  
3 replace an existing school located within the same school impact  
4 district, either on the same site or on a different site. [~~In~~  
5 ~~the event of closure, demolition, or conversion of an existing~~  
6 ~~permanent department facility within a school impact district~~  
7 ~~that has the effect of reducing student capacity, an amount of~~  
8 ~~new student capacity in permanent buildings equivalent to the~~  
9 ~~lost capacity shall be funded with non-school impact fee~~  
10 ~~revenue. Eligible construction costs include but are not~~  
11 ~~limited to planning, engineering, architectural, permitting,~~  
12 ~~financing, and administrative expenses, and any other capital~~  
13 ~~equipment expenses pertaining to educational facilities. Impact~~  
14 ~~fees for the construction cost component shall not be expended~~  
15 ~~for:~~

- 16 ~~(1) Any costs related to the acquisition of land;~~  
17 ~~(2) The maintenance or operation of existing schools in~~  
18 ~~the district; or~~

- 19 ~~(3) Portable or temporary facilities.~~

- 20 ~~(e) Impact fees and fees in lieu]~~

- 21 (g) Eligible construction costs include but are not

22 limited to planning, engineering, architectural, permitting,

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1 financing, and administrative expenses, and any other capital  
2 equipment expenses pertaining to educational facilities.

3 (h) Construction cost component impact fees shall not be  
4 expended for:

5 (1) The maintenance or operation of existing schools in  
6 the district; or

7 (2) Portable or temporary facilities.

8 (i) If a closure, demolition, or conversion of an existing  
9 permanent department facility within a school impact district  
10 that has the effect of reducing student capacity occurs, an  
11 amount of new student capacity in permanent buildings equivalent  
12 to the lost capacity shall not be funded with school impact fee  
13 revenue.

14 (j) Fees in lieu of land dedication, proceeds from the  
15 sale of all or part of an existing school site that has been  
16 dedicated by a developer pursuant to the requirements of this  
17 subpart, and construction cost component impact fees shall be  
18 expended or encumbered within twenty years of the date of  
19 collection. Fees shall be considered spent or encumbered on a  
20 first-in, first-out basis. An expenditure plan for ~~the~~ all  
21 collected impact fees shall be incorporated into the annual

1 budget process of the department and subject to legislative  
2 approval of the budget."

3 SECTION 12. Section 302A-1609, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~[+]§302A-1609[+]~~ **Refunds~~[-]~~ of fees.** If ~~[the]~~ a fee in  
6 lieu of land dedication or a construction cost component impact  
7 fee is not expended within twenty years of the date of  
8 collection, the department shall either:

- 9 (1) Refund to the developer, or the developer's successor  
10 in interest, the amount of the fee in lieu paid and  
11 any interest accrued thereon; or  
12 (2) Recommit part or all of the fees for another twenty-  
13 year period for construction of new schools in the  
14 school impact district, as authorized by the developer  
15 or the developer's successor."

16 SECTION 13. Section 302A-1610, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "~~[+]§302A-1610[+]~~ **Credits for land dedication.** (a) Any  
19 ~~[person]~~ owner of a development subject to the land ~~[dedication]~~  
20 component impact fee requirements pursuant to this ~~[+]~~subpart~~[+]~~  
21 may apply for credit against any similar dedication or payment  
22 accepted and received by the department for the project~~[-]~~;

1 provided that any such owner who dedicates more land for school  
2 facilities than is required for the development shall receive  
3 credit for the excess dedicated land area.

4 (b) Any credit provided for under this section shall be  
5 based on the value[7] determined in the manner provided under  
6 section 302A-1606.

7 (c) Excess credits for land contributions prior to  
8 [~~July 3, 2007~~] July 1, 2010, that are in excess of a developer's  
9 requirement under this subpart shall be based on the determined  
10 value[7] of the excess dedication; provided that the credit  
11 amount shall not exceed the value of the dedication or fee in  
12 lieu required under this [7]subpart[7].

13 (d) In addition to, or instead of applying credits to  
14 future developments, the department may execute with an owner of  
15 credits an agreement to provide for partial or full  
16 reimbursement from the school impact fee payments collected from  
17 other developers within the same school impact district. The  
18 reimbursements shall not exceed the amount of the fee revenues  
19 available in the account for that school impact district."

20 SECTION 14. Section 302A-1611, Hawaii Revised Statutes, is  
21 amended to read as follows:



1        "[+]§302A-1611[+] Credits for excess contributions or  
2 advance payment of required construction cost component impact  
3 **fees.** (a) Any ~~[applicant]~~ owner of a development subject to  
4 the ~~[school]~~ construction cost component impact fee requirements  
5 pursuant to this ~~[+]subpart[+] may apply for]~~ shall receive  
6 credit for any similar contribution, payment, or construction of  
7 public school facilities accepted and received by the  
8 department~~[-]~~ for the development that is in excess of the  
9 impact fee required under this subpart for that development. No  
10 credit shall be authorized against the impact fees in lieu of  
11 land dedication.

12        (b) A credit may be applied only against school impact  
13 fees that would otherwise be due for new residential  
14 developments for which the payment or contribution was agreed to  
15 in a written educational contribution agreement. ~~[The~~  
16 ~~department shall maintain an accounting of the amount of the~~  
17 ~~credit applicable to the new residential development and shall~~  
18 ~~reduce the amount of the credit by the amount of the school~~  
19 ~~impact fees that would otherwise be due for each building permit~~  
20 ~~issued for the new residential development. After the credit~~  
21 ~~balance is exhausted, no additional credits shall be applied to~~

1 ~~subsequent building permits issued within the new residential~~  
2 ~~development.]~~

3 (c) Excess contribution credit may be applied to the  
4 construction cost component impact fee requirement for any  
5 future development by the same owner in the same school impact  
6 district, or with the written approval of the owner of the  
7 credit, to any future development by a different owner in the  
8 same school impact district.

9 (d) In addition to, or instead of applying the credits to  
10 future developments, the department may execute with an owner of  
11 the credits an agreement to provide for partial or full  
12 reimbursement from the impact fee payments collected from other  
13 developers within the same school impact district. The  
14 reimbursements shall not exceed the amount of the impact fee  
15 revenues available in the account for that school impact  
16 district.

17 (e) Any owner of a development shall receive credit for  
18 any part of its required construction cost component impact fee  
19 that, with the approval of the department, is paid in advance of  
20 the time specified in the written agreement executed in  
21 accordance with section 302A-1607(h). The department shall  
22 maintain an accounting of the amount of the credit applicable to

1 the new residential development and shall reduce the amount of  
2 the credit by the amount of the impact fees that would otherwise  
3 be due for each building permit issued for the new residential  
4 development. After the credit balance is exhausted, no  
5 additional credits shall be applied to subsequent building  
6 permits issued within the new residential development.

7       ~~[(e)]~~ (f) If private construction of school facilities is  
8 proposed by a developer after ~~[July 3, 2007,]~~ July 1, 2010, if  
9 the proposed construction is acceptable to the department, and  
10 if the value of the proposed construction exceeds the total  
11 impact fees that would be due from the development, the  
12 department shall execute with the developer an agreement to  
13 provide reimbursement for the excess credit from the impact fees  
14 collected from other developers within the same benefit  
15 district. For the purposes of this section, the private  
16 construction of school facilities is a "public work" pursuant to  
17 chapter 104."

18       SECTION 15. This Act does not affect rights and duties  
19 that matured, penalties that were incurred, and proceedings that  
20 were begun before its effective date.

21       SECTION 16. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

1           SECTION 17.   This Act shall take effect on July 1, 2050.

2

**Report Title:**

DOE; School Impact Fees

**Description:**

Clarifies the law for determining school impact fees for financing new or expanding existing department of education schools or facilities. Takes effect 7/1/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*